

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: June 16, 2004

Division: County Attorney

AGENDA ITEM WORDING:

Approval to advertise an ordinance amending or deleting various sections of the Monroe County Code which are now obsolete or superseded by statute or subsequent ordinances.

ITEM BACKGROUND:

PREVIOUS RELEVANT BOCC ACTION:

CONTRACT/AGREEMENT CHANGES:

STAFF RECOMMENDATIONS:

Approval to advertise for ONE PUBLIC HEARING on July 14, 2004 in Key West.

TOTAL COST:

BUDGETED: Yes No

COST TO COUNTY:

Revenue Producing:

Amount Per Month - Year

APPROVED BY: County Atty YES OMB/Purchasing N/A Risk Management N/A

DIVISION DIRECTOR APPROVAL:

John R. Collins 06/02/04
J. R. COLLINS

DOCUMENTATION: Included X To Follow Not Required

AGENDA ITEM # 17

ORDINANCE NO. - 2004

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, CORRECTING MONROE COUNTY CODE OF ORDINANCES REFERING TO REPEALED STATUTES AND COUNTY ORDINANCES; REPEALING ORDINANCES OR PORTIONS THEREOF THAT HAVE BECOME OBSOLETE OR SUPERSEDED BY STATUTE OR MORE SUBSEQUENTLY ADOPTED ORDINANCES; PROVIDING THAT THE REPEAL OF ANY ORDINANCE OR PORTION THEREOF SHALL NOT REVIVE ANY EARLIER ORDINANCE; PROVIDING THAT THE REPEAL OF ANY ORDINANCE OR PORTION THEREOF SHALL NOT AFFECT ANY FEE OR PENALTY DUE ON THE EFFECTIVE DATE OF REPEAL AND SHALL NOT AFFECT THE VALIDITY OF ANY BONDS OUTSTANDING ON THE DATE OF REPEAL; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, numerous Monroe County Code of Ordinance provisions have over the years, become outdated, obsolete, in conflict with more recently adopted ordinances or superseded by state law; and

WHEREAS, it is desired to update the Monroe County Code of Ordinances to correct the above described deficiencies; now, therefore

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA:

Section 1. Sec. 1 - 7(b), MCC, is hereby amended to read:

(b) Funds paid to the county from civil penalties assessed by the county court pursuant to chapter 318, Florida Statutes, and received by the county pursuant to section ~~318.21(3)(e)~~ 318.21(3)(b) Florida Statutes, may be used for funding local criminal justice training ~~programs~~ as provided in section ~~943.25(7)~~ 938.15, Florida Statutes when such a program has been established by an ordinance of the Board of County Commissioners, to fund a County school guard training program, and for any other lawful purpose. Funds received by the county in accordance with this subsection shall be disbursed upon requisition of the sheriff of Monroe County. ~~All funds accrued since October 1, 1986, shall be available for requisition by the sheriff.~~

Section 2. Secs. 2-16 - 2-20, MCC, concerning the 1973 and 1991 County Commission districts, are hereby repealed.

Section 3. Sec. 2-21, MCC, is hereby created to read:

Sec. 2-21. County Commissioner districts.

The boundaries of the districts of the County Commissioners shall be fixed as provided in Chapter 124, F.S., and as provided by any other applicable provision of state or federal law.

Section 4. Sec. 2-527(d), MCC, is hereby amended to read:

Sec. 2-527(d)

(d) *Officer or county officer* means those persons defined in ~~F.S. sSection 112.3145(a)(3)~~ 112.3145(1)(a) Florida Statutes; ~~elected members of the County Commission and any person appointed to fill a vacancy for an unexpired term of such; any person appointed to a county board, commission, authority, excluding independent special districts; or advisory bodies, serving under the County Commission. Any other appointed member of a local government board who is required to file a statement of financial interest by the appointing authority or the enabling legislation, ordinance, or resolution creating the board, and any member of an advisory body appointed by and serving under the County Commission.~~

Section 5. Sec. 2-533, MCC, is hereby amended to read:

Sec. 2-533. Same – Procurement of goods, services.

(a) Any county officer or employee who violates Monroe County Code sSection 2-529 of this article shall be prosecuted in the same manner as misdemeanors are prosecuted and, upon conviction, shall be punished by a fine not to exceed five hundred dollars (\$500.00) or by imprisonment in the county jail not to exceed sixty (60) days, or by both such fine and imprisonment.

(b) Any county officer appointed to a board, commission or authority who violates Monroe County Code sSection 3 2-529 of this article may additionally be removed from office for cause.

(c) Any county officer enumerated in F.S. section ~~112.3145(a)(3)~~ 112.3145(1)(a), who is not subject to career service under chapter 2, article III, Monroe County Code, and chapter 69-1321, Laws of Florida, and who violates section 2-529 of this article may also be ~~additionally~~ discharged for cause.

(d) Any county officer subject to career service or an employee who violates section 2-529 of this article shall have violated the standard of employment set forth in ~~section 2-142(12) Monroe County Code~~ the County's Personnel Policies, and may additionally be subject to disciplinary action ~~under chapter 2 [article III] division 9, Monroe County Code~~, up to and including discharge.

(e) A conviction in county court shall not be a condition precedent to removal from office, discharge or discipline.

Section 6. Sec. 2-10(c), MCC, is hereby amended to read:

Declared County Purpose. It is hereby declared that all such expenditures when made shall be for a valid county and public purpose within the meaning of article VII, section 9 10 of the Florida Constitution of 1968.

Section 7. Secs. 2-15-16 – 15-19, MCC, creating the 18 member advisory body titled the "Monroe County Pollution Board," are hereby repealed.

Section 8. Sec. 2-15.2(b)(2), MCC, the 3rd paragraph, concerning posting notice on abandoned property, is amended to read:

Such notice shall be not less than eight (8) inches by ten (10) inches and shall be sufficiently weatherproof to withstand normal exposure to the elements. In addition to posting, the enforcement officer shall make a reasonable effort to ascertain the name and address of the owner. If such is reasonably available to the officer, he shall mail a copy of such notice to the owner on or before the date of posting. If the property is a motor vehicle as defined in section 320.01(1), Florida Statutes, or a vessel as defined in section ~~327.02(27)~~ 327.02(37), Florida Statutes, the enforcement agency involved shall contact the ~~department of highway safety and motor vehicle or the department of natural resources~~ Department of Highway Safety and Motor Vehicles or the Florida Fish and Wildlife Commission respectively, in order to determine the name and address of the owner and any person who has filed a lien on the vehicle or vessel as provided in section 319.27(2) or (3), Florida Statutes, or section 328.15(1), Florida Statutes. On receipt of this information, the enforcement agency shall mail a copy of the notice by certified mail, return receipt requested, to the owner and to the lienholder, if any. If, at the end of five (5) days after posting the notice and mailing such notice, if required, the owner or any person interested in the lost or abandoned article or articles described has not removed the article or articles from public property or shown reasonable cause for failure to do so, the following shall apply:

Section 9. Sec. 2-7, MCC, concerning certain fees that are no longer collected by the Sheriff, is hereby repealed.

Section 10. Sec. 2-15.6, MCC, concerning employee awards which has been superseded by Sec. 2.8, MCC, is hereby repealed.

Section 11. Sec. 2-476(e), MCC, concerning investments of surplus funds which is predicated on a repealed statute (former Sec. 125.31, FS), is hereby repealed. Sec. 2-476(d), MCC, is hereby renumbered as Sec. 2-476(c), MCC, and Sec. 2-476(e), MCC, is hereby renumbered as Sec. 2-476(d), MCC.

Section 12. Sec. 2-298B, MCC, is hereby amended to read:

Pursuant to section 125.0104, Florida Statutes, the Monroe County Tax Collector shall keep records showing the amount of taxes collected. These records shall be open to the public during the regular office hours of the Monroe County Tax Collector ~~as provided in section 213.072, Florida Statutes.~~

Section 13. Subsections 2-298(F)(1) and (2), MCC, are hereby amended to read:

(1) For the purposes of enforcing the collection of the tax levied by this article, the clerk is hereby specifically authorized and empowered to examine at all reasonable hours the books, records and other documents of all dealers, or other persons charged with the duty to report or pay a tax under this article in order to determine whether they are collecting the tax or otherwise complying with this article.

In the event such dealer refuses to permit such examination of its books, records or other documents by the clerk as aforesaid, it is guilty of a misdemeanor of the first degree, punishable as provided in section 775.082, or section 775.083 ~~or section 775.084~~, Florida Statutes. The clerk shall have the right to proceed in circuit court to seek a mandatory injunction or other appropriate remedy to enforce its right against the offender, as granted by this section, to require an examination of the books and records of such dealer.

(2) Each dealer, as defined in this article, shall secure, maintain and keep for a period of three (3) years a complete record of rooms or other lodging, leased or rented by said dealer, together with gross receipts from such sales, and other pertinent records and papers as may be required by the Monroe County Tax Collector for the reasonable administration of this article and all such records which are located or maintained in this state shall be open for inspection by the clerk at all reasonable hours at such dealer's place of business located in the county.

Any dealer who maintains such books and records at a pint outside Monroe County must make such books and records available for inspection by the Clerk in Monroe County, Florida. Any dealer subject to the provisions of this article who violates these provisions is guilty of a misdemeanor of the first degree, punishable as provided in section 775.082, or section 775.083, ~~or section 775.084~~, Florida Statutes.

Section 14. Sec. 2-301(A), MCC, is hereby amended to read:

(A) Any person who is taxable hereunder who fails or refuses to charge and collect from the person paying any rental or lease the taxes herein provided, either by himself or through his agents or employees, shall be, in addition to being personally liable for the payment of the tax, guilty of a misdemeanor of the second degree, punishable as provided in section 775.082 or section 775.083 ~~or section 775.084~~, Florida Statutes.

Section 15. Sec. 2-571(h) and (i), MCC, are hereby amended to read:

(h) Any person who is taxable hereunder who fails or refuses to charge and collect from the person paying the taxable privilege the tax herein provided, either by himself or through his agents or employees, is, in addition to being personally liable for the payment of the tax, guilty of a misdemeanor of the second degree, punishable as provided in section 775.082 or section 775.083 ~~and section 775.084~~, Florida Statutes.

(i) No person shall advertise or hold out to the public in any manner, directly or indirectly, that he will absorb all or part of the tax, that he will relieve the person paying for the taxable privilege of the payment of all or any part of the tax, or that the tax will not be added to the consideration for the taxable privilege or, when added, that it or any part thereof will be refunded or refused, either directly or indirectly, by any method whatsoever. Any person who willfully violates any provision of this subsection is guilty of a misdemeanor of the second degree, punishable as provided in section 775.082 or section 775.083 ~~and section 775.084~~, Florida Statutes.

Section 16. Sec. 2.5-1(1) MCC, is hereby amended to read:

(1) Effective January 1, 1990, every person, firm or corporation possession a saltwater products license from the state department of natural resources of Florida and having applied and qualified under section 9.5-255, Monroe County Code (Commercial Fishing Residential) is required to have a county residential occupation license.

Section 17. Sec. 12.5-2, MCC, is hereby amended to read:

The issuance of the license and the disposition of the revenues so collected, and the revocation of the license shall be in the same manner as set forth in the following sections of the Monroe County Code Chapter 12.1, Monroe County Code.

- (a) ~~Section 12-4, Monroe County Code;~~
- (b) ~~Section 12-5, Monroe County Code;~~
- (c) ~~Section 12-6, Monroe County Code;~~
- (d) ~~Section 12-9, Monroe County Code;~~
- (e) ~~Section 12-10, Monroe County Code;~~
- (f) ~~Section 12-53, Monroe County Code;~~

Section 18. Sec. 5-1 Magazine, MCC, is hereby amended to read:

Magazine: Any building, "day box" or structure approved in conformance with BATF Specifications ~~(27 CFR 55.209)~~ for the storage of explosives and/or explosive materials, but excluding "day magazines" used exclusively for the transportation of explosives from magazines to drill rigs. The latter are not herein regulated.

Section 19. Subsection 8-111(a)(2), MCC, is hereby amended to read:

(2) Any element, compound, mixture, solution, or substance designated pursuant to section ~~42 USCA 9602~~ of this title;

Section 20. Subsections 8-113(c) and (d), MCC, are hereby amended to read:

(c) if the county receives EPA reimbursement for the temporary emergency response, the County Administrator and clerk are directed to retain all county records pertaining to that reimbursement for a period of ten (10) years from the date of the receipt of the reimbursement. Upon the expiration of the ten (10) years, the records shall not be disposed of until the EPA is contacted pursuant to ~~40 CFR 310.70~~ federal law.

(d) ~~40 CFR 310.50~~ Federal law only allows for one application for reimbursement regardless of the number of local governments which incurred costs in the temporary emergency response release of hazardous substances, pollutants or contaminants. Therefore, if the county and another local government (e.g. the City of Key West) join in a temporary emergency response, the county administrator is authorized to represent the county in any negotiation with the other local government(s) with regard to which entity shall file the EPA application and the equitable division of any reimbursement received from the EPA. The County Commission shall, however, approve any agreement reached by the county administrator before such shall become binding on the county.

Section 21. Subsection 13-57(b), MCC, is hereby amended to read:

(b) *Penalties and enforcement.* A violation of this article shall be punishable as a second degree misdemeanor and by a fine of up to five hundred dollars (\$500.00) per day, per violation and/or by imprisonment in the county jail for not more than sixty (60) days. Violators of this article may be prosecuted in county court in the name of the state by the State Attorney through citation or information. Code enforcement may also enforce the terms of this article by bringing the case before a special master pursuant to Code section 6.3-14 ~~4~~ or by citation under Code section 6.3-11 ~~12~~, F.S. § 162.21 (as may be amended), and 76-435 Laws of Florida (as may be amended). If a code enforcement citation is issued, the fine shall be two hundred fifty dollars (\$250.00) for a first offense and five hundred dollars (\$500.00) for subsequent offenses. In addition, the occupational license issued for a commercial entity may be revoked by the special master of court of competent jurisdiction upon a finding of two (2) or more violations of this article by the same entity.

Section 22. Sec. 13-6, MCC, having been superseded by Sec. 386.209, FS, is hereby repealed.

Section 23. Sec. 13-131, MCC, is hereby amended to read:

Sec. 13-131. Definitions.

- (a) *Deviate sexual intercourse* has the meaning set forth in Florida Statutes, section 847.001~~(2)~~ (5).
- (b) *Nudity* has the meaning set forth in Florida Statutes, section 847.001~~(5)~~ (9).
- (c) *Person* includes individuals, firms, associations, corporations, and all other groups and combinations.
- (d) *Obscene* means the status of material which:
 - (1) The average person, applying contemporary community standards, would find, taken as a whole, appeals to the prurient interest;
 - (2) Depicts or describes, in a patently offensive way, sexual conduct as specifically defined in subsections (a), (b) and (e) through (j) of this article; and
 - (3) Taken as a whole, lacks serious literary, artistic, political, or scientific value.
- (e) *Sadomasochistic abuse* has the meaning set forth in Florida Statutes, section 847.001~~(8)~~ (13).
- (f) *Sexual battery* has the meaning set forth in Florida Statutes, section 847.001~~(9)~~ (14).
- (g) *Sexual bestiality* has the meaning set forth in Florida Statutes, section 847.001~~(10)~~ (15).
- (h) *Sexual conduct* has the meaning set forth in Florida Statutes, section 847.001~~(11)~~ (16).
- (i) *Sexual excitement* has the meaning set forth in Florida Statutes, section 847.001~~(12)~~ (17).
- (j) *Simulated sexual* means the depiction of the conduct described in subsection (h) which creates the appearance of such conduct and which exhibits nudity.

Section 24. Sec. 13-3, MCC, having been preempted by Sec. 790.33, FS, is hereby repealed.

Section 25. Sec. 11-2(a), MCC, is hereby amended to read:

- (a) A fine of two hundred fifty dollars (\$250.00) is hereby imposed for violations involving illegal parking in parking spaces designated under Florida Statutes section 316.1955 and Florida Statutes section ~~316.1956~~ 316.1957 for disabled persons. A law enforcement officer or parking enforcement specialist who discovers a vehicle parked in violation of this subsection may issue a ticket, in the form used by the county for parking violations, to the driver or, if the vehicle is unattended, attach the ticket to the vehicle in a conspicuous place. The liability for payment of the parking ticket is pursuant to FS § 316.1967.

Section 26. Sec. 11-5, MCC, having been superseded by Sec. 11-11, MCC, is hereby repealed.

Section 27. The subject matter of Sec. 2.1-3, MCC, possession of open containers of alcoholic beverages in vehicles, is covered by Sec. 316.1936, FS. Therefore Sec. 2.1-3, MCC, is hereby repealed.

Section 28. Sec. 13-10(a)(2), MCC, is hereby amended to read:

- (2) Any person who refuses to submit to a sound level test when requested to do so by an law enforcement office is guilty of a misdemeanor of the second degree, punishable as provided in Florida Statutes section 775.082, section 775.083 ~~or section 775.084.~~

Section 29. Sec. 16-21, MCC, is hereby amended to read:

Sec. 16.21. Definitions.

As used in this article, the following terms shall be defined as set forth hereinafter:

- (1) *Arterial road* shall be deemed to mean a road carrying a higher volume of traffic than a local or collector road, which is used primarily for traffic traveling a considerable distance and as otherwise defined in section 334.03~~(15)~~ (1), Florida Statutes. An arterial road is generally continuous and is used as a main traffic artery.
- (2) *Collector road* shall be deemed to mean a road which carries traffic from local roads to major thoroughfares and includes the principal entrance roads of a residential subdivision and as otherwise defined in section 334.03~~(16)~~, (4), Florida Statutes.
- (3) *County road system* shall be as defined in sections 336.01 and 334.03~~(23)~~ (8), Florida Statutes.
- (4) *Governmental or subgovernmental agencies* shall be deemed to mean the State of Florida and its various agencies and departments, the United States of America and its various agencies and departments, political subdivisions of the State of Florida, including counties, incorporated municipalities of the State of Florida, drainage districts, and such taxing districts and special agencies and bodies as are created by county ordinances, Florida statute or by special act of the legislature, and as otherwise defined in section 334.03~~(3)~~ (12), Florida Statutes.

- (5) *Local road* shall be deemed to mean a road designed and maintained primarily to provide access to abutting property, and as otherwise defined in section 334.03~~(17)~~ (15), Florida Statutes. A local road is of limited continuity and not for through traffic.
- (6) *Permit* shall be deemed to mean the written permission of the Board of County Commissioners through the office of the county public works director to enter onto the public rights-of-way within the county road system to perform the construction or installation as specified in that instrument.
- (7) *Permittee* shall be deemed to mean any individual, firm, association, syndicate, copartnership, corporation, trust or any other legal unit commencing proceedings under this article or obtaining a permit as provided herein to effect construction within the public rights-of-way of the county.
- (8) *Public rights-of-way* means land that is dedicated or deeded to (or is now used or will be used by) the county as a road, street, alley, walkway, drainage facility, access for ingress and egress, or for other purposes, including those rights-of-way within municipalities which by virtue of bilateral agreements between the municipality and the county are subject to the jurisdiction and control of the county public works department; and those state secondary roads for which maintenance has been assigned to and accepted by the county ~~and as otherwise provided for in section 335.04, Florida Statutes.~~ Until such time as the Board of County Commissioners accepts ownership and responsibility for the maintenance of a right-of-way, it shall not be considered part of the public rights-of-way for the purposes of this article except in cases where the title to such right-of-way was vested in the county prior to June 11, 1963.
- (9) *Public or private utility* shall include any pipeline, gas, electric, heat, water, oil, sewer, telephone, telegraph, radio, cable television, transportation, communication or other system by whomsoever owned and operated for public use, including but not limited to the Florida Keys Aqueduct Authority, ~~Southern Bell~~ BellSouth, ~~City Electric~~ Keys Energy System, The Florida Keys Electric Cooperative Association, Inc. and/or their successors, affiliates, subsidiaries or assigns. ~~(See section 376.37, Florida Statutes).~~
- (10) *Public works manual* shall be deemed to mean the current edition of the "Monroe County Public Works Manual, Parts 1 and 2."
- (11) *Road* shall be as defined in section 334.03~~(7)~~ (23), Florida Statutes.

Section 30. Subsections 16-21.(6) and (7), MCC, are hereby amended to read:

- (6) It is not the intent of this section to restrict a public or private utility in any way from performing their service to the public as required and regulated by the public service commission or the applicable Florida Statutes; ~~however, as prescribed by sections 337.112 and 337.113 of the 1984 Supplement to the Florida Statutes.~~ † Local government entities have statutory authority to issue permits and prescribe and enforce reasonable rules or regulations pertaining to the use of those right-of-ways under their jurisdictional control. ~~Pursuant to section 337.113 and 337.113 of~~

~~the 1984 Supplement to the Florida Statutes, p~~ Public or private utilities granted the right to use the right-of-way have a duty and the county required that they restore a public road or public right-of-way to its original condition at the public or private utility's expense when such facility is damaged in the course of installing, repairing or maintaining physical plant by that utility.

(7) ~~Pursuant to section 337.114 of the 1984 Supplement to the Florida Statutes, t~~
The physical plant of any public or private utility heretofore or hereafter placed upon, over or along any public road that is found by the county to be unreasonably interfering in any way with the convenient, safe, or continuous use or maintenance, improvement, extension or expansion of such public road shall, upon thirty (30) days' written notice to the public or private utility or its agent by the Board of County Commissioners, be removed or relocated by such public or private utility at its own expense.

Section 31. Sec. 16-28, MCC, is hereby amended to read:

All permission granted for construction under this article does not constitute and shall not be construed as permitting a permanent installation within any public right-of-way. Any facility permitted within the public right-of-way shall be relocated or reconstructed by the owner at his sole cost and expense when in irreconcilable conflict with any construction, reconstruction, or any project performed by the county or its authorized representative, which is deemed to be in the interest of the general public within thirty (30) days of the request. It shall be the responsibility of the public works director to provide notice to the affected permittees at the earliest possible time prior thereto of any such conflicts, whether actual, possible or planned. Where the owner requests additional time up to a maximum of one hundred eighty (180) days, this may be granted by the office of the public works director upon receipt of a letter stating adequate grounds to support the owner's position that additional time is necessary to complete the relocation. If the extension of time requested by the owner is denied by the public works director or an extension in excess of one hundred eighty (180) days is desired by the owner, the owner may appeal to the Board of County Commissioners by written request; and the time for relocation shall be stayed while the appeal is pending. Where the county has requested a relocation, permits will be required to approve the new sites of the utility facility, but permit fees shall be waived. Utility placements and relocations shall be governed by the prescriptions of sections 337.112, 337.113, 337.114 and 337.115, Florida Statutes, 1984 Supplement, or such other enactments as supersede the aforesaid sections as provided by general law.

Section 32. Sec. 13-8, MCC, is hereby amended to read:

Unless otherwise provided by ordinance, A all county parks and beaches in the unincorporated areas of Monroe County, except Harry Harris Park, Tavernier, Florida, shall be closed during the hours of 11:00 p.m. to 7:00 a.m. No person shall enter or remain at any such park or beach during those hours. The prohibition of this section may be waived by the Board of County Commissioners on a per-event basis.

Section 33. Subsections 13-10(a)(1) and (2), MCC, is hereby amended to read:

(a) Pursuant to section 327.60(1), Florida Statutes, Monroe County, Florida, hereby adopts the following noise pollution and exhaust regulations enumerated in section 327.65(2)(a) of the Florida Statutes:

(1) No person shall operate or give permission for the operation of any vessel on the waters in Monroe County, Florida, in such a manner as to exceed the following sound levels at a distance of fifty (50) feet from the vessel: for all vessels, a maximum sound level of 90dB A ~~or those levels specified in section 13-44 and 13-45 of the Monroe County Code, whichever is more stringent.~~

(2) Any person who refuses to submit to a sound level test when requested to do so by a law enforcement officer is guilty of a misdemeanor of the second degree, punishable as provided in Florida Statutes section 775.082, or section 775.083 ~~or~~ section 775.084 .

Section 34. Sec. 13-9(c), MCC, is hereby amended to read:

(c) For the purposes of this section, "alcoholic beverage" means ~~any beverage containing more than one (1) percent ethyl alcohol by volume~~ distilled spirits and all beverages containing one-half of 1 percent or more alcohol by volume.

Section 35. Secs. 8-16 – 8-42, MCC, concerning solid waste collection and which has been superseded by Secs. 8-71 et seq., MCC, are hereby repealed.

Section 36. Sec. 9.3-12, MCC, concerning the Land Authority's interim development plan (now obsolete), is hereby repealed.

Section 37. Sec. 6-56(1), Monroe County Code, is hereby amended to read:

Engineering:

(1) A *Class I General engineering contractor* may perform the following work:

a. Construct foundations including the excavating, forming and placing of reinforcing steel and concrete and perform other incidental work thereto; and

b. Other concrete and engineering work, including but not limited to, harbors, docks, excavating, filling and grading, drainage, pile driving, levees, pumping stations, and similar types of work in conjunction with water power, water control, waterworks and water supply, paving and sidewalks, curbs and gutters, streets and roads, bridges and overpasses and underpasses in streets, roads and public thoroughfares, underground sewage collection and disposal systems, bulkheading and underground utility line construction, both sanitary and storm sewer systems and similar work.

Section 38. Sec. 6-56 *Engineering* (3), is hereby created to read:

(3) No person not previously certified as a Class I General Engineering or as Class II, Specialty Engineering Contractor in the subclasses pipeline, pile driving and foundation, seawall and small dock, fuel transmission and distribution line, and hydraulic dredging, as of February 18, 2004, shall be certified as a Class I General Engineering or Class II Specialty Engineering

Contractor after February 18, 2004. However, the Contractors Examining Board shall continue to certify and regulate those Class I and specified Class II Engineering Contractors who were certified on (DATE OF MEETING FOR APPROVAL) , 2004, provided that said engineering contractors maintain their certificates of competency in good standing pursuant to this chapter and rules promulgated hereunder.

Section 39. Existing Sec. 6-56 *Engineering* (3), is hereby renumbered as Sec. 6-56(4).

Section 40. Sec. 6-56 is hereby amended by the deletion of *Sheet metal contractor*.

Section 41. Sec. 6-56 *Specialty Contractors* (35) is hereby amended to delete certain categories for testing and to read as follows:

(35) *Testing, except for administrative exam*, shall not be required for licensing in the specialty trades enumerated provided the applicant has had at least two (2) years' experience in the field, demonstrated to the satisfaction of the licensing board, for the following specialty trades:

- Acoustical ceiling
- Aluminum specialties
- Cabinet and millwork
- Drilling auger
- Fence erection
- Flooring
- Garage door opener/installation
- Heating, ventilation and A/C duct installation
- House setter
- Insulation
- Landscaping
- Masonry
- Mobile home maintenance and repair
- Mobile home set-up and tie-down
- Painting and decorating
- Plastering
- Satellite, TV antenna, telephone and other communications equipment installation
- Septic tank cleaning
- ~~Solar products~~
- Solar window tinting
- Steel reinforcing and iron
- Tile, marble and terrazzo

The following list of specialty trades shall always require testing for purposes of licensure:

- Asphalt sealing and coating
- Burglar alarms
- Demolition
- Drywall
- Fire Alarm
- ~~Gasoline tank and pump~~
- Glazing
- ~~Guniting and sandblasting~~
- House moving

Lawnsprinkler
Low Voltage
Sign electrician
Sign erection
~~Structural steel erection~~
~~Swimming pool servicing~~
Waterproofing and roof painting
Welding

Section 42. Sec. 6-56, is hereby amended by adding after *Specialty Contractors* (41) the following:

Commencing February 18, 2004, no person not previously certified as a specialty contractor in the following specialty list as of February 18, 2004, shall be certified in the following specialty list after February 18, 2004. However, the Contractors Examining Board shall continue to certify and regulate those contractors who continue to maintain their certificates of competency in good standing pursuant to this chapter and rules promulgated hereunder the following specialty trades:

gasoline tank and pump
guniting and sandblasting
house moving
solar products
swimming pool servicing
thatched structure
welding

Section 43. Sec. 6-62 *Reciprocity* is hereby amended to read as follows:

Every person who, under the terms of this article, is required to hold a certificate of competency, and who has written proof from the City of Key West, Florida, Building Department, or other county or municipality in the State of Florida, stating that the applicant has scored a minimum grade of seventy (70) percent on an independent examination agency which is designated by the Contractors Examining Board may, upon payment of a \$25 application fee, seek a reciprocal certificate of competency to be qualified to conduct construction in Monroe County. Examination corresponding and equivalent to any examination required for an existing category licensed under this chapter and proctored by the examination agency shall be entitled to a certificate of competency without examination; but such certificate shall be subject to any restrictions and limitations carried by the current county certificate and shall entitle the holder of such certificate to do business only in the unincorporated areas of the county. The equivalency of the examinations shall be determined by the Contractors Examining Board. All prerequisites, other than testing, for a certificate of competency shall be met prior to issuance of a reciprocal certificate. The terms of this section apply solely to reciprocity with such counties and municipalities providing reciprocity to contractors who hold a certificate of competency issued by Monroe County. The examinations must be been conducted for the licensure by the particular county or municipality with which Monroe County has a reciprocal agreement.

Section 44. Sec. 6-63 Fees is hereby amended to read:

(a) The board shall recommend to the Board of County Commissioners reasonable fees to be paid for application, examination, certification and renewal, and recordmaking and recordkeeping. Effective October 1, 1993, the fees shall be established as follows:

General Contractor		\$200.00
Building Contractor		150.00
Residential Contractor		150.00
Engineering Contractor I		200.00
Engineering Contractor II		150.00
Engineering Contractor III		150.00
Mechanical, Plumbing and Electrical Contractors		150.00
All other Contractors, including Specialty Trades		150.00
Master (Plumbing, Electrical and Mechanical)		100.00
Journeyman (Plumbing, Electrical and Mechanical)		70.00
Apprentice		30.00
<u>Examination Fees:</u>		
<u>Administrative Business and Law Exam</u>	35.00-	<u>55.00</u>
All Three Hour Technical Exams	75.00-	<u>155.00</u>
All Six Hour Exams		150.00

The renewal fees shall cover two (2) years, and the certificate of competency shall be issued for two (2) years. The renewal fees shall be due on October 1 of each odd-numbered year and shall be delinquent on November 1 of that same year. The penalty for late renewal on or after November 1 of each odd-numbered year, but prior to the expiration of twelve (12) months thereafter, shall be forty dollars (\$40.00). Upon expiration of one (1) year more after October 31 of the year when the renewal fee is due, the contractor shall appear before the Contractors Examining Board for assessment of the appropriate renewal fee and need for reexamination pursuant to section 6-65.

Should an initial certificate of competency be issued subsequent to October of any odd-numbered year and prior to October 1 of the next odd-numbered year, the fees listed above shall be prorated on the basis of quarterly, or six-month, increments of the two-year license period. Reduction of fees for certifications issued for period of less than two (2) years shall be as follows:

<i>Periods</i>	<i>Reduction of Fee</i>
October 2, odd year, to April 1, even year	0%
April 2, even year, to October 1, even year	25%
October 2, even year to April 1, odd year	50%
April 2, odd year, to October 1, odd year	75%

(b) Honorary certificates shall be issued without charge to any person over sixty (60) years of age providing that said person holds any of the above said licenses in the county. Thereafter, said person will not be permitted to engage in business without first paying all renewal fees necessary to make said license current.

Section 45. Sec. 6-65 Reexamination may be required for renewal or reinstatement is hereby amended to read:

a) Where a certificate of competency has been revoked or has expired or lapsed for any reason, the board:

(1) May require complete reexamination before a certificate of competency is renewed or reinstated.

(2) Require a fee of five hundred dollars (\$500.00) or a fee equal to five (5) years of renewal fees in the certificate holder's particular category, whichever is less.

(3) After five (5) years of a certificate of competency being lapsed, the applicant shall be reexamined.

b) Where a certificate of competency is no longer issued for a trade other than contractors who have continuously maintained their certificate of competency in good standing, a contractor shall not be permitted to reinstate an expired, revoked, or lapsed certificate.

Section 46. Repeal shall not revive any ordinances. The repeal of an ordinance herein shall not repeal the repealing clause of such ordinance or revive any ordinance which has been repealed thereby.

Section 47. Effect of repeal on past actions and obligations. This ordinance does not affect prosecutions for ordinance violations committed prior to the effective date of this ordinance, does not waive any fee or penalty due and unpaid on the effective date of this ordinance, and does not affect the validity of any bond or cash deposit posted, filed or deposited pursuant to the requirements of any ordinance.

Section 48. This ordinance shall take effect immediately upon receipt of official notice from the Office of the Secretary of State of the State of Florida that this ordinance has been filed with said Office.

PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida, at a regular meeting of said Board held on the _____ day of _____, 2004.

Mayor Nelson
Mayor Pro Tem Rice
Commissioner McCoy
Commissioner Neugent
Commissioner Spehar

(SEAL)

Attest: DANNY L.KOLHAGE, Clerk


BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By _____
Deputy Clerk

By _____
Mayor/Chairperson

jordCodeUpdate

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:


JOHN R. COLLINS
COUNTY ATTORNEY
Date 06/02/04